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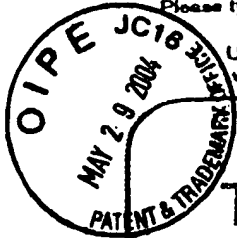
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# TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number

10/080,947

Filing Date

02/21/02

First Named Inventor

PEBORAH  
TUCKER

Group Art Unit

3724

Examiner Name

C. GOODMAN

Total Number of Pages in This Submission

39

Attorney Docket Number

1556-1

## ENCLOSURES (check all that apply)

- ☐ Fee Transmittal Form
- ☐ Fee Attached
- ☐ Amendment / Response
- ☐ After Final
- ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
- ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53

- ☐ Assignment Papers (for an Application)
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition Routing Slip (PTO/SB/69) and Accompanying Petition
- ☐ To Convert a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Small Entity Statement
- ☐ Request for Refund

- ☐ After Allowance Communication to Group
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☒ Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
- ☐ Proprietary Information

- ☐ Status Letter
- ☒ Additional Enclosure(s) (please identify below):

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RECEIPT

Remarks

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm  
or  
Individual name

JOHN MATHER, III

Signature

John Mather

Date

MAY 29, 2004

## CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date: **MAY 29, 2004**

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JOHN MATHER, III

Signature

John Mather

Date

MAY 29, 2004

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PTO/SB/17 (11-00)

Approved for use through 10/31/2002. OMB 0651-0032

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# FEE TRANSMITTAL for FY 2001

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT

(\$) 165<sup>00</sup>

## Complete if Known

Application Number	10/080,947
Filing Date	02/21/02
First Named Inventor	DEBORAH TUCKER
Examiner Name	C. GOODMAN
Group Art Unit	3724
Attorney Docket No.	1556-1

## METHOD OF PAYMENT

1. ☐ The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number   
Deposit Account Name

☐ Charge Any Additional Fee Required  
Under 37 CFR 1.17 and 1.17

☐ Applicant claims small entity status.  
See 37 CFR 1.27

2. ☒ Payment Enclosed:

☒ Check ☐ Credit card ☐ Money Order ☐ Other

## FEE CALCULATION

## 1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
101 710	201 355	Utility filing fee	<input type="text"/>
106 320	206 160	Design filing fee	<input type="text"/>
107 490	207 245	Plant filing fee	<input type="text"/>
108 710	208 355	Reissue filing fee	<input type="text"/>
114 150	214 75	Provisional filing fee	<input type="text"/>

SUBTOTAL (1) (\$)

## 2. EXTRA CLAIM FEES

Total Claims  Extra Claims  Fee from below  Fee Paid   
Independent Claims  - 20\*\* =  X  =   
Multiple Dependent Claims  - 3\*\* =  X  =

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
103 10	203 9	Claims in excess of 20
102 80	202 40	Independent claims in excess of 3
104 270	204 135	Multiple dependent claim, if not paid
109 80	209 40	** Reissue independent claims over original patent
110 18	210 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

## 3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
105 130	205 65	Surcharge - late filing fee or oath	<input type="text"/>
127 50	227 25	Surcharge - late provisional filing fee or cover sheet	<input type="text"/>
139 130	139 130	Non-English specification	<input type="text"/>
147 2,520	147 2,520	For filing a request for <i>ex parte</i> reexamination	<input type="text"/>
112 920*	112 920*	Requesting publication of SIR prior to Examiner action	<input type="text"/>
113 1,840*	113 1,840*	Requesting publication of SIR after Examiner action	<input type="text"/>
115 110	215 55	Extension for reply within first month	<input type="text"/>
116 390	216 195	Extension for reply within second month	<input type="text"/>
117 890	217 445	Extension for reply within third month	<input type="text"/>
118 1,390	218 695	Extension for reply within fourth month	<input type="text"/>
128 1,890	228 945	Extension for reply within fifth month	<input type="text"/>
119 310	219 155	Notice of Appeal	<input type="text"/>
120 310	220 155	Filing a brief in support of an appeal	165 <sup>00</sup>
121 270	221 135	Request for oral hearing	<input type="text"/>
138 1,510	138 1,510	Petition to institute a public use proceeding	<input type="text"/>
140 110	240 55	Petition to revive - unavoidable	<input type="text"/>
141 1,240	241 620	Petition to revive - unintentional	<input type="text"/>
142 1,240	242 620	Utility issue fee (or reissue)	<input type="text"/>
143 440	243 220	Design issue fee	<input type="text"/>
144 600	244 300	Plant issue fee	<input type="text"/>
122 130	122 130	Petitions to the Commissioner	<input type="text"/>
123 50	123 50	Processing fee under 37 CFR 1.17(q)	<input type="text"/>
126 180	126 180	Submission of Information Disclosure Stmt	<input type="text"/>
581 40	581 40	Recording each patent assignment per property (times number of properties)	<input type="text"/>
146 710	246 355	Filing a submission after final rejection (37 CFR § 1.129(a))	<input type="text"/>
149 710	249 355	For each additional invention to be examined (37 CFR § 1.129(b))	<input type="text"/>
179 710	279 355	Request for Continued Examination (RCE)	<input type="text"/>
169 900	169 900	Request for expedited examination of a design application	<input type="text"/>

Other fee (specify) 

\*Reduced by Basic Filing Fee Paid

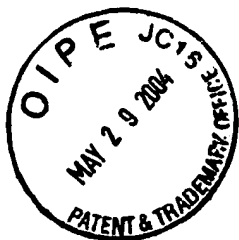
SUBTOTAL (3) (\$) 165<sup>00</sup>

## SUBMITTED BY

Name (Print/Type)	JOHN MAIER, III	Registration No. (Attorney/Agent)	20,990	Complete (if applicable)	Telephone (FAX)	-340-0010
Signature	<i>John Maier</i>			Date	May 29, 2004	

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BOARD OF PATENT APPEALS AND INTERFERENCES

APPLICATION NO.: 10/080,947

TITLE: MEMO DEVICE

APPLICANT: DEBORAH TUCKER

DATE FILED: FEBRUARY 21, 2002

EXAMINER: C. GOODMAN

DATE: MAY 29, 2004

ATTORNEY DOCKET: 1556-1

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APPEAL BRIEF OF APPELLANT DEBORAH TUCKER

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06/03/2004 MAHMED1 00000069 10080947

01 FC:2402

165.00 OP

APPLICATION NO. : 10/080,947

ART UNIT: 3724

APPLICANT: DEBORAH TUCKER

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#### REAL PARTY IN INTEREST

The real party in interest is the above-named Applicant, now Appellant Deborah Tucker, who resides at 2171 Sawkill -Ruby Road, Kingston, NY 12401.

#### RELATED APPEALS AND INTERFERENCES

No other appeals and no interferences exist.

#### STATUS OF CLAIMS

Claims 1-4 and 8-17 are pending in this Application and all of the fourteen claims are being appealed.

Claims 1-4 and 8-17 are set forth in th Appendix of this Appeal Brief.

Claim 1 remains as amended by amendment dated October 9, 2003 to include among other changes that the paper roll may be fed in either direction to either slot.

Claim 2 remains as originally filed.

Claim 3 remains as originally filed.

Claim 4 has bee3n amended to include the clarification added to claim 1.

Claim 5 has been cancelled.

Claim 6 has been cancelled.

Claim 7 has been cancelled.

Claim 8 remains as originally filed.

Claim 9 remains as originally filed.

Claim 10 remains as originally filed.

Claim 11 was amended to make a technical correction and to define the distance

between the base and the writing panel at both the wide and the narrow ends.

Claim 12 remains as originally filed.

Claim 13 remains as originally filed.

Claim 14 remains as originally filed.

Claim 15 remains as originally filed.

Claim 16 has been amended that the paper roll may be rotated in two directions for either slot.

Claim 17 remains as originally filed.

#### STATUS OF AMENDMENTS

Applicant filed one amendment to which the examiner issued a final rejection. Applicant attempted to file an amendment after final rejection but the Examiner denied entry by contending that the phrase "when the panel is mounted" was not earlier presented and thus raises new issues. It is strongly contended that no new matter was included as the claims were always present in the preamble to the claims. However, the claims pending at this time are allowable without this amendment.

#### SUMMARY OF THE INVENTION

A memo device is provided which may be mounted either vertically or horizontally (P.5, lines 4-6) for making notations on a paper sheet fed from a paper roll 23 (P.5, line 4) which permits starting notations both at the top of the paper sheet and the open end of the roll 23. (P.5, lines 19-21). Both the wide end panel 15 and the

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narrow end panel 17 have a slot 27,35 through them. (P.6., lines 7-8) A wide end bar 29 is mounted across the writing panel 13 (P.6, lines 5-6) and the wide end bar 29 has a cutting edge adjacent to the wide end panel 15. (P.6, line 11) Means are also provided for mounting the paper roll. (P.7, lines 13-21) Accordingly a memo device is provided that can be placed on a vertical surface (P. 7, lines 8-12) and on a horizontal surface (P. 6, lines 19-21 and P.7, lines 1-4) As a result, regardless of position, writing can always be commenced at the top of the paper roll 23 which is the open end. (P.5, lines 14-21)

### ISSUES

1. Does the combination of the lane Patent, US Patent 5,432,687 and the Urquhart et al Patent, US Patent 3,645,595 render Applicant's claimed invention unpatentable under 35 USC 103 (a).

2. Do the pending claims of Applicant provide limitations as to vertical and horizontal placement.

The claims under appeal do not stand or fall together but have varying multiple basis for allowance but all the claims include the limitation of a paper roll that can be fed in two different ways so as to extend across the writing panel from opposite directions.

### ARGUMENT

The Examiner has transversed Applicant's argument that the claimed device can be mounted vertically or horizontally. The preramble to each claim expressly defines the

purpose of the claimed invention to be for use either vertically or horizontally. The content of the claims describes a device capable of use either vertically or horizontally. Neither patent cited by the Examiner even hints at such a device.

The Examiner contends that "Lane discloses the invention substantially as claimed except for a slot at the wide end." This is not correct. Lane also fails to teach a device where the direction of feed of the paper roll is reversible. Lane also fails to provide a narrow end bar and shows only one such bar, namely a wide end bar.

Urquhart et al accordingly to the Examiner has a wide end slot but according to the specification of that patent a "channel 13", not a slot is provided and that channel is not in the wide end but rather on the writing surface. Just looking at FIG. 1 of Urquhart et al makes crystal clear that Urquhart et al does not teach a slot. If the device of Urquhart et al were hung vertically, there is no question that the paper roll would fall on the ground. Applicant's claim 1 specifically recites that the paper roll is "adjacent to the wide end panel and beneath the writing panel and for rotating and feeding the paper roll in opposite directions to both slots.

The concept of vertical and horizontal mounting is not even hinted at in either Lane or Urquhart et al. To achieve the result of a device as claimed by Applicant, the wide end slot as claimed by Applicant, would have to be created apart from the cited patents. Likewise, the reversible rotation would have to be developed. The design using a second or narrow end bar would have to be developed. Urquhart et al has a



serated edge and does not have a bar. The combination of Lane and Urquhart et al falls far short of teaching Applicant's device. Neither patent even implies Applicant's device and the benefits that it provides.

### CLAIM ANALYSIS

Claim 1 is patentable over Lane in view of Urquhart et al by including both a wide end bar and a narrow end bar and "a means . . . for rotating and feeding the paper roll in opposite directions to the slot in the wide end panel and to the slot in the narrow end panel." Also, Applicant claims a slot in the wide end panel.

Claim 2 is patentable for the same reasons as claim 1.

Claim 3 is patentable for the same reasons as claim 1.

Claim 4 is patentable for the same reasons as claim 1.

Claim 8 is patentable for the same reasons as claim 1.

Claim 9 is patentable for the same reasons as claim 1.

Claim 10 is patentable for the same reasons as claim 1.

Claim 11 is patentable for the same reasons as claim 1.

Claim 12 is patentable for the same reasons as claim 1.

Claim 13 is patentable for the same reasons as claim 1.

Claim 14 is patentable for the same reasons as claim 1.

Claim 15 is patentable for the same reasons as claim 1.

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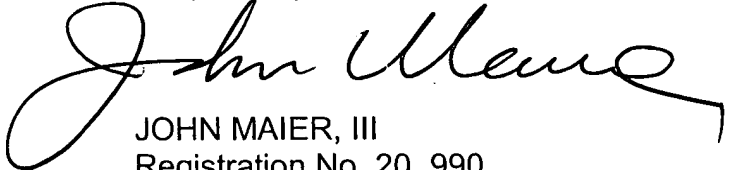
Claim 16 is patentable for the same reasons as claim 1.

Claim 17 is patentable for the same reasons as claim 1.

The claims of Applicant are clearly patentably distinct over the art cited by the Examiner which art has been seriously misconstrued by the Examiner.

The Applicant is entitled to have Claims 1-4 and 8-17 allowed which action is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Maier, III". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

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APPENDIX / — /

1 (Amended). A memo device which may be mounted ~~either~~ both vertically or and horizontally for making notations on a paper sheet fed from a paper roll which permits starting notations both at the top of the paper sheet and the open end of the roll, said memo device comprising:

a base panel;

a writing panel inclined to the base panel;

a narrow end panel having a slot through it;

a wide end panel having a slot through it, the writing panel being mounted on the narrow end panel and the wide end panel;

a narrow end bar mounted across the writing panel slightly above the writing panel, the narrow end bar having a cutting edge adjacent to the narrow end;

a wide end bar mounted across the writing panel slightly above the writing panel, the wide end bar having a cutting edge adjacent to the wide end; and

~~a paper roll; and~~

means for mounting the paper roll adjacent to the wide end panel and beneath the writing panel and for rotating and feeding the paper roll in opposite directions to the slot in the wide end panel and to the slot in the narrow end panel.

2. (Original) A memo device according to claim 1 wherein the narrow end panel and the wide end panel are substantially parallel to one another.

3. (Original) . A memo device according to claim 1 wherein the means for mounting the paper roll includes a pair of opposing journals and a spindle mounted in the journals.

4 (Amended). A memo device which may be mounted ~~either~~ both vertically ~~or~~ and horizontally for making notations on a paper sheet fed from a paper roll which permits starting notations both at the top of the paper sheet and the open end of the roll, said memo device comprising:

a base panel;

two side panels, ~~each side panel having a narrow end edge and a wide end edge, the wide end edges being larger than the narrow end edges~~ mounted on the base panel;

a writing panel mounted on the two side panels ~~along the writing edges~~ at an incline to the base panel;

a narrow end panel mounted between the two side panels ~~along the narrow edges,~~ and between the writing panel and the base panel, the narrow end panel having a slot through it;

a wide end panel mounted between the two side panels ~~along the wide edges,~~ the side end panel having a slot through it, the distance between the base panel and the writing panel being greatest at the wide end panel and being closest at the narrow end panel;

a narrow end bar mounted across the writing panel slightly above the writing panel, the narrow end bar having a cutting edge adjacent to the narrow end;

a wide end bar mounted across the writing panel slightly above the writing panel, the wide end bar having a cutting edge adjacent to the wide end; and

means for mounting the paper roll adjacent the wide end panel and beneath the writing panel and between the side panels, and for rotating and feeding the paper roll in opposite directions to the slot in the wide end panel and to the slot in the narrow end panel.

5. (Cancelled) A memo device according to claim 4 wherein the two side panels each has a base edge, each writing edge being inclined to a base edge.
6. (Cancelled) A memo device according to claim 4 wherein the two side panels each has a base edge, each writing edge being inclined to a base edge; and  
a base panel mounted on the side panels along the base edge.
7. (Cancelled) A memo device according to claim 4 wherein the side panels are substantially parallel to one another.
8. (Original) A memo device according to claim 4 wherein the narrow end panel  
and the wide end panel are substantially parallel to one another.

9. (Original) A memo device according to claim 4 wherein the narrow end panel and the wide end panel are substantially parallel to one another and are substantially at right angles to the side panels

10. (Original) A memo device according to claim 4 wherein the means for mounting the paper roll between the side panels includes pair of opposing journals mounted on the side panels and a spindle mounted in the journals.

11(Amended). A memo device which may be mounted ~~either~~ both vertically or and horizontally for making notations on a paper sheet fed from a paper roll which permits starting notations both at the top of the paper sheet and the open end of the roll, said memo device comprising:

a base panel;

~~two side panels, each side panel having a base edge, a writing edge, a narrow~~  
~~end edge and a wide end edge, the wide end edges being larger than the narrow end~~  
~~edges, the writing edges being inclined to the base edges~~ mounted on the base panel;

~~a base panel mounted on the two side panels along the base edge;~~

a writing panel mounted on the two side panels opposite from the base panel  
and at an angle to the base panel ~~along the writing edges;~~

a narrow end panel mounted between the base panel and the writing panel and  
between the two side panels along the narrow edges, the narrow end panel having a  
slot through it adjacent to the base panel;

a wide end panel mounted between the base panel and the writing panel and  
between the two side panels along the wide edges, the side end panel having a slot  
through it adjacent to the base panel, the distance between the base panel and the  
writing panel being greatest at the wide end panel and being closest at the narrow end  
panel ;

a narrow end bar mounted across the writing panel slightly above the writing  
panel, the narrow end bar having a cutting edge adjacent to the narrow end;

a wide end bar mounted across the writing panel slightly above the writing panel,  
the wide end bar having a cutting edge adjacent to the wide end; and



journals mounted between the writing panel and the base panel;  
a spindle mounted in the journals; -  
a paper roll mounted on the spindle to rotate in one direction to the slot in the  
narrow end panel and to rotate in the opposite direction to the slot in the wide end  
panel;

12. (Original) A memo device according to claim 11 wherein the side panels are substantially parallel to one another.

13. (Original) A memo device according to claim 11 wherein the narrow end panel and the wide end panel are substantially parallel to one another.

14 (Pending). A memo device according to claim 11 wherein the narrow end

14. (Original) . A memo device according to claim 11 wherein the narrow end panel and the wide end panel are substantially parallel to one another and are substantially at right angles to the side panels.

15. (Original) A memo device according to claim 11 wherein the means for mounting the paper roll between the side panels includes a pair of opposing journals mounted on the side panels and a spindle mounted in the journals.

16 (Amended). A memo device which may be mounted either both vertically or and horizontally for making notations on a paper sheet fed from a paper roll which permits starting notations both at the top of the paper sheet and the open end of the roll, said memo device comprising:

a base panel;

~~two side panels, each side panel having a base edge, a writing edge, a narrow end edge and a wide end edge, the narrow end edge and the wide end edge being substantially parallel to one another and generally being at right angles to the base edges panel, the wide end edges being larger than the narrow end edges, the writing edges being inclined to the base edges, the side panels being substantially parallel to one another and having opposing journals located toward the wide end edges and between the writing edges and the base edges;~~

~~a base panel mounted on the two side panels along the base edges;~~  
journals

a writing panel mounted on the two side panels opposite from the base panel and at an angle to the base panel ~~along the writing edges;~~

a narrow end panel mounted between the base panel and the writing panel and between the two side panels ~~along the narrow edges,~~ the narrow end panel having a

slot through it adjacent the base panel;

a wide end panel mounted between the base panel and the writing panel and between the two side panels ~~along the wide edges~~, the side end panel having a slot through it adjacent the base panel, the narrow end panel and the wide end panel being substantially parallel to one another and being generally at right angles to the side panels, the distance between the base panel and the writing panel being greatest at the wide end panel and being closest at the narrow end panel;

a narrow end bar mounted on the side panels and across the writing panel slightly above the writing panel, the narrow end bar having a cutting edge adjacent the narrow end;

a wide end bar mounted on the side panels and across the writing panel slightly above the writing panel, the wide end bar having a cutting edge adjacent the wide end; and

journals mounted between the base panel and the writing panel;

a spindle having a mounting pin at each end, one of the mounting pins being spring loaded, the mounting pins being mounted in the journals; and

a paper roll mounted on the spindle to rotate in one direction to the slot in the narrow end panel and to rotate in the opposite direction to the slot in the wide end panel.

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17. (Original)            A memo device according to claim 16 wherein the base panel is  
slidably mounted on the two side panels.